UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA and COMMONWEALTH OF MASSACHUSETTS ex rel. JULIO ESCOBAR and CARMEN CORREA, ADMINISTRATRIX OF THE ESTATE OF YARUSHKA RIVERA Relators-Plaintiffs, v. UNIVERSAL HEALTH SERVICES, INC., UHS OF DELAWARE, INC., and HRI CLINICS, INC. Defendants.	No. 11-CV-11170-DPW

FIFTH AMENDED COMPLAINT
(Leave to Amend Granted on January 18, 2017)

The qui tam relators, Julio Escobar and Carmen Correa, ("Relators"), on behalf of the United States of America and the Commonwealth of Massachusetts, bring this action against Defendants, Universal Health Services, Inc., UHS of Delaware, Inc., and HRI Clinics, Inc., (together, "UHS"), pursuant to the federal False Claims Act, 31 U.S.C. Section 3729 et seq., and the Massachusetts False Claims Act, M.G.L. Chapter 12, Section 5A et seq., to recover damages and penalties resulting from Defendants' improper billing for mental health services that were ultimately paid for by the United States and the Commonwealth of Massachusetts.

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INTRODUCTION

1. The allegations in this Fifth Amended Complaint arise out of UHS's practice of hiring unlicensed, unqualified, and unsupervised employees to provide mental health services at twelve outpatient mental health centers that operated under the name "Arbour Counseling Services" ("Arbour"). UHS billed for these services in clear violation of several express requirements of MassHealth, the Massachusetts Medicaid program. UHS had full knowledge of these violations but billed the United States and Massachusetts governments anyway, as if the services had been provided by qualified and properly supervised mental health professionals in full compliance with MassHealth regulations. Relators discovered these false and fraudulent billing practices from their own investigation into the death of their daughter, Yarushka Rivera ("Yarushka"), a 17-year-old high school student who received gravely inadequate treatment from UHS's unsupervised and unqualified personnel at the Arbour facility in Lawrence, Massachusetts. Relators discovered that UHS's failure to comply with MassHealth regulations was not limited to the individuals who provided services to their daughter. Its retention of unqualified mental health workers, not only occurred repeatedly at the Arbour Lawrence facility, but at numerous other Arbour clinics throughout the Commonwealth. Indeed, investigations in other States prompted by UHS whistleblowers have revealed similar false and fraudulent billing practices along with a myriad of other fraudulent activity at over two dozen UHS facilities nationwide.

PARTIES

2. Plaintiff-Relators, Julio Escobar and Carmen Correa (collectively, the "Relators"), are married and reside in Methuen, Massachusetts. Yarushka is the late daughter of Carmen Correa and the step-daughter of Julio Escobar. At all times relevant to the Fifth Amended Complaint, Yarushka was a recipient of MassHealth insurance benefits.

3. Defendant Universal Health Services, Inc., ("Universal"), is a for-profit Delaware corporation which does business in Massachusetts and has a principal place of business at 367 Gulph Road, King of Prussia, PA 19406.

4. Defendant UHS of Delaware, Inc., is a for-profit Delaware corporation which does business in the state of Massachusetts, and has a principal place of business at 367 Gulph Road, King of Prussia, PA 19406. UHS of Delaware, Inc., is a wholly owned subsidiary of Universal.

5. Defendant HRI Clinics, Inc., ("HRI") is a for-profit Massachusetts corporation doing business in Massachusetts, with a principal place of business located at 367 South Gulph Road, King of Prussia, PA 19406. HRI is a wholly owned subsidiary of Universal.

6. As described below, UHS owns, operates and manages counseling facilities throughout eastern Massachusetts including: Arbour Counseling Services, Allston; Arbour Counseling Services, Jamaica Plain; Arbour Counseling Services, Fall River; Arbour Counseling Services, Franklin; Arbour Counseling Services, Haverhill ("Arbour Haverhill"); Arbour Counseling Services, Lawrence ("Arbour

Lawrence"); Arbour Counseling Services, Lowell; Arbour Counseling Services, Norwell; Arbour Counseling Services, Woburn; Arbour Counseling Services, Malden ("Arbour Malden")[1], Arbour Counseling Services, Worcester; Arbour Counseling Services, W. Yarmouth. Collectively, these UHS owned Massachusetts based entities are referred to as "Arbour." The Arbour counseling centers are all mental health centers, as that term is defined by MassHealth at 130 CMR 429.402. At all relevant times, Arbour Lawrence was a "satellite" of Arbour Malden.

JURISDICTION AND VENUE

7. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1331, 28 U.S.C. §1367, and 31 U.S.C. §3732, the latter of which specifically confers jurisdiction on this Court for actions brought pursuant to 31 U.S.C. §§3729 and 3730.

8. To the best of the Relators' knowledge, no public disclosure of the "allegations or transactions" that are the basis of this action occurred prior to the Relators' filing of this action for the purposes of 31 U.S.C. §3730(e)(4). In any event, the Relators are the original source of the information upon which the False Claims Act allegations in this complaint are based. Prior to any public disclosure, the Relators voluntarily disclosed to the United States and the Commonwealth of Massachusetts the allegations and transactions at issue and the Relators have knowledge that is

[1] At some point after Yarushka Rivera was treated by the Defendants, the Arbour Counseling Center in Malden moved to Woburn, MA, and is now known as Arbour Counseling Services, Woburn. For simplicity, Relators will refer to both the Malden Center and the Woburn Center as "Arbour Malden".

independent of any such disclosure and which materially adds to the publicly disclosed allegations or transactions.

9. This Court has personal jurisdiction over the defendants, pursuant to 31 U.S.C. §3732(a) because UHS operates mental health centers throughout Massachusetts and, accordingly, transacts business in the District of Massachusetts.

10. At all times relevant to this Fifth Amended Complaint, UHS regularly conducted substantial business within the District of Massachusetts and maintained employees and offices in Massachusetts. In addition, statutory violations, as alleged herein, occurred in the District of Massachusetts.

THE RELATIONSHIPS BETWEEN UNIVERSAL, UHS OF DELAWARE, INC. AND HRI, AND THEIR CONTROL OF ARBOUR

11. Universal is a holding company which owns and operates health care facilities, including behavioral health centers. At the time Yarushka Rivera was treated by Arbour, Universal owned, controlled, and operated 101 behavioral health centers in 32 states, the District of Columbia and Puerto Rico. At the time of the filing of this Fifth Amended Complaint it owns, controls and operates at least 216 such centers.

12. According to Universal's Form 10-K, filed with the United States Securities and Exchange Commission, UHS of Delaware, Inc. is the management company for Universal. Relators are not certain which responsibilities are lodged in Universal and which are held by UHS of Delaware, Inc., but between the two entities they manage and control all of the operating entities owned by Universal, including the

Arbour facilities. UHS of Delaware, Inc. and Universal are collectively referred to herein as "UHS, Inc."

13. UHS, Inc. holds all of its behavioral health centers through subsidiaries, such as HRI. However, notwithstanding the name of the entity which technically holds the license, all behavioral health center operations are managed by UHS, Inc. and all behavioral health centers, including those at the Arbour facilities, report to supervisors who are UHS, Inc. employees.

14. In fact, all employees of the behavior health centers are hired by UHS, Inc. Persons interested in being employed in any UHS mental health facility, in any capacity—from the most credentialed treating professional to the lowest paid employee—either apply directly through the UHS, Inc., website or through third parties, such as Monster, who identify the employer as UHS, Inc. The same procedures apply to the Arbour facilities.

15. Through its control of the human resources and the hiring process, UHS, Inc., sets the qualifications for each of the mental health professionals who treat patients at the behavioral health centers, including the Arbour facilities. Through its control of human resources, UHS, Inc. also establishes the lines of reporting and supervision at the behavioral health clinics, including the Arbour facilities.

16. Each of the Arbour facilities identified above operates under a license granted by the Massachusetts Department of Public Health to Arbour Counseling Services. There is no corporation or other business entity recognized by the Commonwealth (or any other state) with the name Arbour Counseling Services.

17. Notwithstanding the fact that it does not formally exist, Arbour Counseling Services purports to have a Chief Executive Officer. That CEO identifies his primary responsibilities to be achieving budget goals through sound cost management. Those budget goals were set and created by the officers and employees of UHS, Inc. Indeed, the Treasurer of HRI, Cheryl Ramagano, has certified to federal officials that the CEO of Arbour Counseling Services is an employee of UHS of Delaware, Inc.

18. HRI asserts that it does business under the name of Arbour Counseling Services. However, HRI does not comply with the requirements of the Commonwealth of Massachusetts, as set forth in M.G.L c. 110, §§ 5 and 6, for doing business under another name. To the extent it has any operations, HRI only operates in Massachusetts. Yet HRI concedes that its principal place of business is in King of Prussia, PA, at the location of UHS, Inc.'s headquarters.

19. HRI's president is Debra K. Osteen. She also serves as a Director of HRI. Ms. Osteen is a Senior Vice President of Universal and the President of its Behavioral Health Division. Ms. Osteen serves as the president of over 50 corporations affiliated with UHS, Inc. She serves on the board of at least 30 corporations affiliated with UHS, Inc. To the extent she devotes any time to HRI, it is de minimis.

20. HRI's Treasurer is Cheryl Ramagano. Ms. Ramagano is the Vice President and Treasurer of Universal. Ms. Ramagano serves as the Treasurer to over 50 corporations affiliated with UHS, Inc. To the extent she devotes any time to HRI, it is de minimis.

21. HRI's Secretary is George Brunner, Jr. He is a deputy general counsel of UHS, Inc. Mr. Brunner serves as the secretary to over 20 corporations affiliated with UHS, Inc. To the extent he devotes any time to HRI, it is de minimis.

22. HRI's vice presidents are Steve Filton and Laurence Harrod, who are respectively the Senior Vice President and Chief Financial Officer of Universal, and the Vice President of Behavioral Finance of Universal. Mr. Filton and Mr. Harrod also serve as directors of HRI. Mr. Filton has served as a corporate officer of at least 100 other corporations affiliated with UHS, Inc. and Mr. Harrod serves as an officer of at least 30 corporations affiliated with UHS, Inc. They each serve on the board of directors of more than a dozen corporations. To the extent that either of them devote any time to HRI, it is de minimis.

23. All of the officers and directors of HRI receive no compensation from HRI and devote all or almost all of their time to other UHS, Inc. entities. HRI provides no leadership or management of the Arbour facilities. All such management and control comes from employees of UHS, Inc.

24. Through its control of HRI, and control over the employees, budgets and decision making at each of the Arbour facilities—including its control of Arbour's personnel, supervision and financial decisions—UHS, Inc. is responsible for presentation of the Arbour claims to the United States and to the Commonwealth of Massachusetts. To the extent UHS, Inc. did not present the false claims identified below to the United States and the Commonwealth of Massachusetts, UHS, Inc. caused the presentation of such claims.

25. UHS, Inc. and HRI are jointly responsible for all of the obligations of UHS described herein.

REGULATORY FRAMEWORK

A. MassHealth Regulations:

26. The Medicaid Program is a means tested government entitlement program, jointly financed by the federal and state governments, that provides healthcare to low-income individuals. The Centers for Medicare & Medicaid Services ("CMS") is the federal agency that, among other duties, partners with the state governments to administer Medicaid to eligible beneficiaries. According to CMS, Medicaid strives to improve the quality of healthcare services delivered to program beneficiaries in a manner which prevents or minimizes harm to patients. CMS recognizes that communication and coordination between properly qualified healthcare providers is paramount to ensuring that quality health care is delivered safely to Medicaid beneficiaries.

27. The Massachusetts Medicaid program, MassHealth, promulgates regulations that govern a healthcare provider's interactions with the program. See generally, 130 CMR §401.401- 130 CMR §650.035. See also 42 U.S.C. §§1396 – 1396v. The MassHealth regulations that apply to mental health centers are set forth in Chapter 429.000 of MassHealth's provider regulations. It is axiomatic that a mental health center's ability to deliver safe, quality health care to patients depends upon the facility's mental health care professionals obtaining the proper qualifications for their particular profession and providing supervision to other health care providers who administer

services to patients. Section 429.424 sets forth the professional qualification and supervision requirements for psychiatrists, psychologists, social workers, and psychiatric nurses working in a mental health center. Indeed, having properly qualified and licensed health care professionals who communicate with and supervise staff in administering health care services to patients is so integral to MassHealth's ability to deliver quality care to patients while minimizing patient harm, that the agency conditions a mental health center's ability to receive payment on compliance with these regulations: "[t]he MassHealth agency pays for diagnostic and treatment services only when a professional staff member, as defined by 130 CMR §429.424, personally provides these services to the member or the member's family." §429.441(A).

28. The regulations require a mental health center to have at least one psychiatrist who is "currently…certified by the American Board of Psychiatry and Neurology, or the American Osteopathic Board of Neurology and Psychiatry, [or] be eligible and applying for such certification." §429.424(A)(1). Any additional psychiatrists employed by the mental health center "must be, at a minimum, licensed physicians in their second year of a psychiatric residency program accredited by the Council on Medical Education of the American Medical Association." §429.424(A)(2). Such physicians must be under the supervision of a fully qualified psychiatrist, as articulated in §429.424(A)(1).

29. The regulations also set forth minimum requirements for psychologists. Section 429.424(B)(1) requires at least one staff psychologist to be licensed by the Massachusetts Board of Registration of Psychologists and specialize in clinical or

counseling psychology, or a closely related specialty. All staff psychologists are required to have obtained a master's degree (or the equivalent) in clinical or counseling psychology from an accredited institution and either be currently enrolled in or have completed a recognized doctoral program. 130 CMR § 429.424(B)(2). The regulations further state that "[a]ll services provided by such additional staff [psychologists] must be under the direct and continuing supervision of a psychologist meeting the requirements set forth in 130 CMR 429.424(B)(1)."

30. The credentials and qualifications psychiatric nurses are required to possess before a mental health center may bill for services rendered are also set forth at § 429.424. The regulations state that "[a]t least one psychiatric nurse must be currently registered by the Massachusetts Board of Registration in Nursing and must have a master's degree in nursing from an accredited National League of Nursing graduate school with two years of full-time supervised clinical experience in multidisciplinary mental-health setting and be eligible for certification as a clinical specialist in psychiatric/mental-health nursing by the American Nursing Association." §429.424(D). A psychiatric clinical nurse specialist – a licensed registered nurse authorized to practice in an expanded role – "can perform prescribing duties within their scope of practice." §429.424(E). The regulations also state that psychiatric nurses must meet the requirements set forth in 244 CMR 4.05(4), which states that such nurses must be under the direct supervision of a physician.

31. Regarding social workers, the regulations state that "[a]t least one staff social worker must have received a master's degree in social work from an accredited

educational institution and must have had at least two years of full-time supervised clinical experience subsequent to obtaining a master's degree." §429.424(C)(1). "Any additional social workers on the staff must provide services under the direct and continuous supervision of an independent clinical social worker." §429.424(C)(2). All unlicensed counselors "must be under the direct and continuous supervision of a fully qualified professional staff member." §429.424(F)(1). All counselors must hold a master's degree in counseling education, counseling psychology, or rehabilitation counseling from an accredited educational institution and must have had two years of full-time supervised clinical experience in a multidisciplinary mental-health setting subsequent to obtaining the master's degree. § 429.424(F)(2).

32. The composition of a mental health center's professional staff is an important part of the center's ability to deliver safe, quality care to patients. The regulations therefore require a mental health center like UHS's Arbour facility to have a balanced interdisciplinary staff including professional staff members who meet the qualifications discussed above. One of these staff members must be a psychiatrist and two must be from non-physician disciplines including psychology, social work, or psychiatric nursing. §429.422(A). The regulations state that the staff "must have specific training and experience to treat the target populations of the center." For example, staff members administering services to children "are required to have specialized training and experience in children's services." §429.422(B).

33. To further ensure that quality care is delivered to MassHealth beneficiaries by professionally supervised staff, the regulations require a mental health

center to appoint a medical director and a clinical director. Section 429.422(A) provides that a mental health center must have at least one psychiatrist "who meet[s] the qualifications outlined in 130 CMR 429.424" as the center's medical director. The medical director is "responsible for establishing all medical policies and protocols and for supervising all medical services provided by the staff." §429.423 (C).

34. All mental health centers must also employ a director of clinical services who is responsible for the direction and control of all professional staff members and services. §429.423(B). The clinical director is "responsible for ensuring compliance of the satellite program with the regulations in 130 CMR 429.000." §429.439(A)(1). Additionally, the clinical director is responsible for the selection of clinical staff, accountability for adequacy and appropriateness of patient care, the establishment of policies and procedures for patient care, program evaluation, and the establishment of a quality management program. §429.423(B). The clinical director must ensure appropriate supervision of staff, §429.423(B)(2)(c), and must retain adequate psychiatric staff. §429.423(B)(2)(e). Section 429.439 states that a satellite facility's clinical director must "meet all of the requirements in 130 CMR 429.423(B)."

35. Section 429.439 expressly provides that satisfaction of the clinical director's responsibilities is a prerequisite to payment under Medicaid: "[s]ervices provided by a satellite program are reimbursable only if the program meets the standards described below [in subsections (A) through (D)]."

36. Other Chapter 429.000 regulations reiterate the requirement that mental health facilities use qualified and properly supervised staff. Section 429.421(A)(2)

provides that "[all] services must be…delivered by qualified staff in accordance with 130 CMR 429.424." Section 429.438(E) provides that mental health centers must supervise staff members "within the context of a formalized relationship," that such supervision must be "appropriate to the person's skills and level of professional development" and consistent with applicable professional licensing standards. §429.438(E)(1)-(2). And §429.408(C) expressly states that Medicaid payment for mental health services includes payment for supervision.

37. All of the regulations discussed above apply to both "parent centers," which are defined as "the central location of the mental health center," and "satellite facilities" like UHS's Arbour clinic, which is "a mental health center program at a different location from the parent center that operates under the license of and falls under the fiscal, administrative, and personal management of the parent center." §429.402. Satellite facilities are further defined as either "autonomous", those that have "sufficient staff and services to substantially assume [their] own clinical management," or "dependent," satellite facilities that operate "under the direct clinical management of the parent center." §429.402.

B. Other Massachusetts Agency Regulations:

38. Numerous other agencies in the Commonwealth promulgate regulations which stress the importance of having qualified professionals and staff supervision in mental health centers. Massachusetts' Department of Public Health ("DPH"), which licenses and regulates mental health facilities, emphasizes the critical importance of appropriate staff supervision. DPH regulations provide that case consultation,

psychotherapy, and counseling services provided at such clinics must be supervised "by the mental health professionals identified in 105 CMR 140.530(C)." §140.520(D)(1). Section 140.530(C), in turn, requires that every satellite facility have a board-certified or board-eligible psychiatrist on staff – "[a] satellite clinic must meet, independently of its parent clinic, all the requirements imposed on clinics by 105 CMR 140.000." The psychiatrist is also responsible for the prescribing, monitoring, and supervising of all prescribed medications, the clinical supervision of appropriate staff, and the documentation of such supervision. §140.530(D)(E); §429.423(D)(2)(f). Section 140.530(E) further provides that unlicensed staff members must be clinically supervised on a regular basis by professional staff members as defined in §140.530(E).

39. Massachusetts regulations relating to the standards of professional practice and conduct in social work are set forth at 258 CMR §20 et seq. The regulations state that it is "unethical or unprofessional conduct" to authorize or permit "a person to perform functions or services which constitute the practice of social work…when one knows or has reason to know that said person is not licensed by the Board and that a license is required" to perform the services rendered. 258 CMR §20.01(5). Section 20.01(6) further states that it is unethical to allow a licensed social worker to perform a particular service when one knows, or has reason to know, that the performance of that service "exceeds the legally permissible scope of practice for that level of licensure." The regulations also make it unethical to engage in any course of conduct which is prohibited by any provisions of the Code of Ethics of the National Association of Social Workers. 258 CMR §20.01(10). Section 20.03 also forbids a social worker from

performing any service which "exceeds the legally permissible scope of practice for his licensure."

40. Regulations propounded by the Board of Registration in Medicine regarding licensing and the practice of medicine are set forth at 243 CMR §2.00. The purpose of the regulations is to set standards which promote public health and safety in the practice of medicine. These regulations discuss the appropriate supervision of nurses prescribing medication at 243 CMR §2.10(3), requiring a board certified or board eligible psychiatrist with admitting privileges to supervise a psychiatric nurse who is prescribing medication. The supervising physician shall also review the nurse's prescribing practice and provide ongoing direction regarding that practice. 243 CMR §2.10(4). The Board of Registration in Nursing regulations are set forth at 244 CMR 4.00 and also set forth the requirements for a physician supervising a psychiatric clinical nurse.

41. Regulations of the Department of Public Health, governing the management and operation of a Mental Health Center regardless of payment source, provide that all care providers must be clinically supervised on a regular basis by professional staff members and that the documentation of supervision must be available for review. See 105 CMR §140.530(E). Irrespective of whether a mental health center is "dependent" on a parent or "autonomous" of the parent, however, appropriate supervision is an express material pre-condition that must be satisfied before a Mental Health Center can seek reimbursement from MassHealth. See 130 CMR §429.439.

C. MassHealth's Payment for Mental Health Services:

42. Traditionally, mental health providers such as UHS contracted directly with MassHealth, and submitted their claims directly to MassHealth. MassHealth reviewed those claims and paid the claims under a fee for service model. While some MassHealth members obtain mental health benefits through fee for service providers, most MassHealth mental health benefits are no longer directly by MassHealth.

43. Many mental health benefits provided by MassHealth are provided through Massachusetts Behavioral Health Partnership ("MBHP"). MBHP is an entity which has contracted with MassHealth to provide, on a managed care basis, mental health care services to MassHealth members who are enrolled in the MassHealth Primary Care Clinician Plan or the Health New England Be Healthy Plan. Other MassHealth beneficiaries belong to Managed Care Organizations ("MCOs") that provide Medicaid managed care plans for MassHealth members, such as Neighborhood Health Plan, Network Health Tufts MCO, or BMC HealthNet Plan. These plans may contract with a third party, or even MBHP or its affiliates, to provide and manage mental health benefits.

44. Mental health care providers such as UHS contract with MBHP and the various MCOs, and are compensated by those entities for the mental health services they provide to MassHealth members. MBHP and the MCOs pay these providers with funds that have been provided to them by the United States and the Commonwealth through the Massachusetts Medicaid Program. Consequently, any request for payment made to MBHP or an MCO on account of any services provided to a MassHealth

member is a "claim" for the purpose of 31 U.S.C §§ 3729 and 3730 and M.G.L. c. 12, §§ 5B and 5C. Any presentation of a false or fraudulent request or demand for payment to these entities is a "false claim" as defined by those statutes. Any reference to any of the Defendants presenting claims or causing claims to be presented to MassHealth shall include the presentation of claims and the causing of claims to be presented to MBHP or to an MCO that has contracted with MassHealth.

45. Pursuant to all provider agreements between MBHP (or the various MCOs) and mental health care providers, including the agreements with all UHS entities, the provider must comply with all state and federal regulatory requirements. All conditions of payment under MassHealth regulations, policies and practices are conditions of payment under any provider contracts with MBHP or with an MCO. Similarly any healthcare provider seeking payment directly from MassHealth on a fee for service basis is required to sign a provider agreement affirming that it will comply with all of the state and federal laws and regulations applicable to the Medicaid program. See 130 C.M.R. §450.223(A) & (C)(1).

D. MassHealth Service Codes and Descriptions:

46. The Current Procedural Terminology ("CPT") coding system, developed by the American Medical Association, is designed to provide information about services provided for financial and administrative purposes. CPT codes play an important part in the billing process as they identify for the insurance payer the services for which the healthcare provider seeks reimbursement. MassHealth uses the CPT coding system for health services performed by mental health clinicians or other qualified health care

practitioners, however, at the relevant times, MassHealth adopted definitions for service codes that were unique to the Commonwealth.

47. Section 601 of the Mental Health Center Manual sets forth CPT codes which correspond to particular mental health services. Each mental health service is described and the assigned code is used by providers to bill MassHealth for the service. Section 601 is clear that reimbursement is contingent on compliance with the MassHealth regulations discussed above as the Section states: "MassHealth pays for services represented by the codes listed in Subchapter 6 in effect at the time of service, subject to all conditions and limitations in MassHealth regulations at 130 CMR 429.000 and 450.000."

48. The claims UHS submitted to MassHealth contained the CPT codes which identified the services for which UHS sought reimbursement. MassHealth's definitions of the relevant CPT codes not only identify which services UHS represented it had provided, but also define what MassHealth expected to receive in exchange for reimbursement. The majority of the relevant claims UHS submitted to MassHealth bore CPT codes 90806, 90847, 90853, 90801, and 90804 which corresponded to the provision of individual therapy, family therapy, group therapy, psychiatric diagnostic interview examination, and individual psychotherapy respectively. The definition of these codes also underscores the importance MassHealth placed on compliance with the requirements of § 429.424. At the relevant time, Section 601 of the MassHealth Mental Health Center Manual defined these codes as follows:

90806: Individual psychotherapy, insight oriented, behavior modifying and/or supportive, in an office or outpatient facility, approximately 45 to 50 minutes face-to-face with the patient (by professional staff member as defined in 130 CMR 492.424).

90847: Family psychotherapy (conjoint psychotherapy) (with patient present) (by professional staff member as defined in 130 CMR 429.424).

90853: Group psychotherapy (other than of a multiple-family group) (by professional staff member as defined in130 CMR 429.424).

90801: Psychiatric Diagnostic Interview Exam.

90804: Individual psychotherapy, insight oriented, behavior modifying and/or supportive, in an office or outpatient facility, approximately 20 to 30 minutes face to face with the patient.

National Provider Identifier Number/Taxonomy Codes:

49. MassHealth requires health care providers to include their National Provider Identifier ("NPI") on all claims billed to the agency. An NPI is a unique 10-digit identification number which is issued to health care providers in the United States by the Centers for Medicare and Medicaid Services ("CMS"). The NPI is used to identify health-care providers for billing purposes in all HIPAA transactions, and, as of May 23, 2007, all paper and electronic claims submitted to MassHealth must contain an NPI. Claims billed without an NPI will be denied by MassHealth and providers are responsible for making sure their NPI information is on file with MassHealth.

50. The NPI number does not carry individual information such as the state where a health care provider practices or what area or specialization the individual practices in. That information is contained in a Taxonomy code – which categorizes health care providers by type, classification, and specialization. When applying for an

NPI number, a health care provider must select the Taxonomy code that most closely describes the health care provider's specialty and report that code in the NPI application. Obtaining an NPI number will not ensure that an individual is licensed or credentialed and neither CMS, nor any other agency, verifies with a provider that the Taxonomy code selected by the provider when applying for an NPI is accurate.

FACTUAL ALLEGATIONS[2]

51. UHS is America's largest psychiatric chain and operates more than 200 psychiatric facilities across the country. UHS treated nearly 450,000 patients last year alone and more than a third of the company's yearly revenue, which totals in the billions of dollars, is generated from Medicare and Medicaid patients. UHS, however, has embraced a corporate culture that puts profits ahead of patients. Numerous reports have surfaced in at least a dozen states that UHS has engaged in a pattern of healthcare fraud that has placed patients in harm's way. A 2011 report on one of UHS's Chicago hospitals revealed that UHS had "woefully inadequate" staffing and that UHS's failure to adequately train staff at the hospital was "repeated and willful…in an effort to maximize financial profits." In early 2015 it was revealed that UHS was under investigation by the U.S. Department of Justice Criminal Fraud Section. The investigation focused on whether the company had fraudulently billed Medicare and Medicaid for behavioral health services provided to its patients. More than twenty-five UHS facilities are currently under federal investigation including multiple facilities in

[2] A copy of Yarushka Rivera's medical records documenting her treatment at Arbour Lawrence are attached at Exhibit 1.

Florida, Georgia, Illinois, North Carolina, Pennsylvania, Texas, Utah, and Virginia. Despite the ever-widening investigation into UHS, the company continues to see admissions to its facilities steadily increase.

52. Relators became aware of UHS's fraudulent activities in Massachusetts as a result of treatment their daughter Yarushka received at UHS's Arbour Lawrence clinic. Yarushka, a recipient of MassHealth insurance benefits, was first referred for mental health care at Arbour Lawrence in 2004, after she began experiencing behavioral problems at her middle school. Yarushka received counseling at Arbour Lawrence with Anna Cabacoff, a licensed social worker.

53. In late 2007, however, Relators were informed by Edward Keohan, Arbour Lawrence's clinical director, that Yarushka needed to be in group therapy with other children and he transferred her care to Maria Pereyra, who referred to herself as a "social worker." In November 2007, Yarushka began receiving "Group Therapy" counseling with Pereyra. After several group therapy sessions with Pereyra, and approximately fifteen other patients, Yarushka complained that she was not benefiting from the counseling.

54. Relators met with Keohan, Pereyra's supervisor, and informed him that they were concerned about the care Yarushka was receiving from Pereyra. Keohan told the Relators that they should give Pereyra some more time working with Yarushka and that Pereyra would provide individual counseling for Yarushka rather than treating her as part of a group. Relators and Yarushka agreed with Keohan's recommendation and Yarushka continued to be treated by Pereyra, but on an individual basis.

55. Unfortunately, Yarushka did not improve. Relators again contacted Keohan and expressed their concerns regarding Pereyra's treatment of Yarushka and stated that they would like Yarushka's care to be transferred. At Relators' request, Keohan transferred Yarushka's care to Diana Casado. Like Pereyra, Casado also referred to herself as a social worker. She treated Yarushka both in group therapy and on an individual basis from June 2008 through September 2008.

56. Unbeknownst to Relators, neither Pereyra nor Casado were social workers as they had claimed to be. Furthermore, neither had any professional licensure that would allow them to provide mental health counseling to children such as Yarushka, without appropriate supervision. Neither Keohan, nor any other licensed social worker, provided any supervision of Pereyra or Casado which was required, given their unlicensed status. On September 24, 2008, Relators were contacted by officials at Yarushka's school informing them that Yarushka was emotional after breaking up with her boyfriend and that she was threatening to injure herself. School officials told Relators that they believed Yarushka should return to Arbour Lawrence for treatment. Relators brought Yarushka to Arbour where she met first with Casado and then with Keohan. Apparently believing that Yarushka was suicidal, Keohan filled out an "Application for and Authorization of Temporary Involuntary Hospitalization" pursuant to M.G.L. Chapter 123, §12(a) ("Section 12") and called the police and an ambulance to transport Yarushka to the hospital.[3]

[3] A copy of the Section 12 application is attached at Exhibit 2.

57. Prior to the statute's amendment in August of 2010, under Section 12 only a physician was authorized to involuntary commit a patient, and then only after an examination of the patient. Keohan filled out the Section 12 and listed Maria Gaticales, M.D. (the only psychiatrist employed by UHS at Arbour Lawrence) as the "applicant." Yarushka was never examined by Dr. Gaticales on that date. Per Arbour practice, policy, and procedure, Arbour kept Section 12 forms on file that were pre-signed by Dr. Gaticales in order to involuntarily hospitalize Arbour patients without having them examined as required by Section 12. Relators would later determine that Dr. Gaticales was not a board certified psychiatrist or board eligible psychiatrist. Although no board certified psychiatrist ever examined Yarushka, she was transported to a hospital anyway, pursuant to Section 12.

58. By February 2009, it was clear to Relators that neither Pereyra nor Casado had benefited Yarushka, and Relators asked Keohan to transfer Yarushka's care. Keohan informed Relators that he was going to reassign Yarushka's care to Anna Fuchu, who Keohan represented was a very experienced "doctor" who could help Yarushka. Fuchu told Yarushka and the Relators that she was a "psychologist," had obtained a Ph.D., and referred to herself as "Dr. Fuchu." On February 25, 2009, Fuchu met with Yarushka and conducted an Initial Clinical Evaluation that lasted approximately fifteen minutes. Based on this evaluation, Fuchu formally diagnosed Yarushka as suffering from bipolar disorder, the first time Yarushka had been so diagnosed.

59. Fuchu provided individual therapy to Yarushka as well as family therapy to Yarushka and her family throughout 2009. Relators would later learn, however, that Fuchu was not a psychologist and that her application for licensure as such had been denied by the Massachusetts Board of Registration for Psychologists. Relators would also learn that Fuchu was not supervised by a certified psychologist and that the Arbour clinic did not even employee a certified psychologist who was qualified to supervise.

60. In May of 2009, Relators were again contacted by school officials and were informed that Yarushka was having trouble interacting with other students at school and would need to be seen by a psychiatrist before she could be readmitted. Relators told Fuchu of the school's recommendation and Fuchu referred Yarushka to Maribel Ortiz of Arbour Lawrence. Because they had specifically informed Fuchu that Yarushka needed to be seen by a psychiatrist, and Fuchu referred Yarushka to Ortiz, Relators believed Ortiz was in fact a psychiatrist and referred to her as "Dr. Ortiz."

61. On May 6, 2009, Yarushka was evaluated by Ortiz. After noting that Fuchu had previously diagnosed Yarushka as suffering from bipolar disorder, Ortiz prescribed a medication called Trileptal to treat Yarushka's purported bipolar disorder. The label on the medication bottle of Trileptal disclosed the name of the practitioner prescribing the medication as "Dr. Ortiz."[4] The fact that the prescription label identified Ortiz as "Dr. Ortiz" reaffirmed Relators' belief that Ortiz was, in fact, a psychiatrist qualified to prescribe medication.

[4] A copy of the prescription label is attached at Exhibit 3.

62. On May 7, 2009, only one day after beginning Trileptal, Yarushka experienced significant side effects including headaches, dizziness, and swelling in her eyes. Yarushka called Ortiz repeatedly, and left her voicemails describing the symptoms she was experiencing. Ortiz never returned Yarushka's messages, believing that she was merely suffering from "a case of the red eyes." Due to the severity of the side effects Yarushka stopped taking the medication. Ortiz had never informed Yarushka that suddenly stopping Trileptal was known to cause a significant risk of experiencing a seizure. In fact, the FDA has never approved Trileptal to treat bipolar disorder.

63. On Wednesday, May 13, 2009, Yarushka, who had no prior history of seizures, suffered a massive seizure and was hospitalized at Lawrence General Hospital. Yarushka was released from the hospital three days later, and was told that she would have to take anti-seizure medication for the rest of her life.

64. On May 18, 2009, Relator Escobar called Arbour Lawrence and spoke with an employee who reported to be Ortiz's supervisor. This employee told Escobar that Ortiz was a nurse, not a psychiatrist. The following day, Escobar spoke with Keohan and complained about Ortiz's treatment of Yarushka. Keohan said that he was not aware of the prior repeated phone calls regarding Yarushka's reaction to the Trileptal. He told Escobar that Ortiz was not a psychiatrist but a nurse, who was very young, inexperienced, and "still trying to get her feet wet."

65. Yarushka continued receiving counseling with Fuchu, whom Relators still believed was a certified and licensed psychologist, over the summer and into the fall of

2009. In October 2009, Yarushka suffered a fatal seizure while she was alone in her bedroom.

66. On three separate occasions following Yarushka's death, Cabacoff came to Relators' home to provide counseling to the Relators. On her final visit, on November 14, 2009, Cabacoff was very critical of the care provided to Yarushka by Arbour Lawrence. Specifically, Cabacoff told Relators that she was one of the few employees at Arbour Lawrence who was actually licensed to provide mental health counseling, and that unlicensed staff were not "well equipped" to treat teenagers such as Yarushka. Cabacoff also informed Relators that Ortiz was not receiving the required supervision during the period of time she treated Yarushka.

67. Cabacoff's comments only strengthened Relators' suspicions that the Arbour staff that provided treatment to Yarushka were not properly licensed or supervised. Relators researched state licensing databases and confirmed that Pereyra, Casado, and Fuchu were not licensed to provide mental health care to patients such as Yarushka. Escobar also confirmed that Dr. Gaticales was not board certified and, accordingly, was not qualified to supervise Ortiz in her prescription of medications to children such as Yarushka.

68. By 2011 Escobar suspected that the licensing issues at Arbour Lawrence stretched well beyond the clinicians who treated Yarushka. Escobar delved deeper into his research and obtained a list of Arbour Lawrence employees who were identified both by name and NPI number. Escobar then took the list of NPI Numbers used by Arbour Lawrence employees and conducted research to verify whether such employees

were, in fact, licensed at the level represented to the government when they obtained their NPI numbers. Escobar confirmed that many Arbour Lawrence employees had obtained NPI numbers identifying themselves as licensed social workers or licensed Mental Health Counselors, although none were in fact licensed by the Commonwealth.

69. These individuals included:

- Beda Polanco
- Nora Fonseca
- Steven Addison
- Andres Nino
- Carmen Guzman
- Magaly Mercedes
- Alissa Dillon
- Laurence Towler
- Jose Rigueiro
- Yakaira Rigueiro
- Carly Souza
- Reinaldo Betances
- Joseline Gonzalez
- Viridania Valdez
- Hendry Matta
- Shakira Hernandez
- Rosario Paulino
- Natalie Mersha
- Marilyn Raices-Queliz
- Alisha Rousselle
- Meghan Kathryn Knight
- Elizabeth Loomis

STATE INVESTIGATIONS OF THE STAFFING AT ARBOUR CLINICS CONFIRMS RELATORS' ALLEGATIONS THAT UHS ROUTINELY PRESENTED CLAIMS TO MASSHEALTH FOR SERVICES PERFORMED BY INELIGIBLE MENTAL HEALTH CLINICIANS

70. Following Yarushka's death, the Massachusetts Division of Professional Licensure, Office of Investigations ("DPL") and the Massachusetts Department of Public

Health ("DPH") conducted several investigations into the staffing at Arbour's Lawrence facility and other mental health clinics operated by Arbour. The findings made by the various state agencies support Relators' allegations that UHS routinely provided mental health services to patients by "therapists" who were not licensed, not properly qualified, and not properly supervised. Mental health services provided by these clinicians were not eligible for reimbursement by MassHealth.

71. DPL's investigation confirmed Relators' allegations that the Arbour employees who provided services to Yarushka did so without the proper licensure or proper supervision. The Board of Registration of Social Workers entered into a Consent Decree with Maria Pereyra pursuant to which Pereyra admitted that she had engaged in the practice of social work at Arbour Lawrence without being licensed to do so. The Consent Decree makes clear that Pereyra performed services as a social worker for Arbour Lawrence patients, including Yarushka, even though she had failed the licensure examination twice - in 2007 and in 2008. As part of the Consent Decree Pereyra agreed to refrain from engaging in the practice of social work until she was properly licensed to do so.[5]

72. The DPL conducted an investigation into clinical director Edward Keohan relating to his lack of supervision of Pereyra. Keohan admitted to the Board of Registration of Social Workers that he allowed Pereyra, an unlicensed clinician, to

[5] A copy of the Consent Decree entered into between Pereyra and the DPL is attached as Exhibit 4.

practice social work while he served in a supervisory role at Arbour Lawrence. Keohan agreed to a two year period of supervised probation.[6]

73. DPL conducted an investigation into Anna Fuchu which revealed that Fuchu had misrepresented that she was in fact a psychologist despite the fact that she was not licensed by the Board of Registration of Psychologists. The investigation confirmed that Fuchu's application for licensure as a psychologist in Massachusetts had been rejected because the internet college Fuchu attended for her Ph.D. in psychology was not recognized by the Board.[7] Fuchu ultimately admitted that she practiced psychology without a license and that she represented that she was a psychologist when she was not licensed as such. Fuchu agreed to refrain from using the title "psychologist" and holding herself out as a psychologist unless she obtained a license.[8]

74. The DPH's Division of Health Professions Licensure conducted an investigation into Maribel Ortiz's treatment of Yarushka. On August 17, 2011, Ortiz received a letter from DPH's Division of Health Professions Licensure informing her that Dr. Gaticales was not qualified to supervise nurse practitioners prescribing psychiatric medication at Arbour Lawrence because Gaticales was not board certified in psychiatry.[9] Ortiz was ordered to either provide written notice within thirty days that she had secured a new supervising physician or to cease her prescribing practice.

[6] A copy of the Consent Decree entered into between Keohan and the DPL is attached at Exhibit 5.
[7] A copy of the DPL letter rejecting Fuchu's application to practice as a licensed Psychologist in Massachusetts is attached at Exhibit 6.
[8] A copy of the Consent Decree entered into between Fuchu and the DPL is attached at Exhibit 7.
[9] A copy of the Letter to Ortiz is attached as Exhibit 8.

75. A DPL investigation found that it was unlawful for Keohan to commit Yarushka using a Section 12 form pre-signed by Dr. Gaticales, when Dr. Gaticales had never examined Yarushka. During the course of the investigation, Keohan admitted that Yarushka could not be legally committed against her will without being examined by a licensed psychiatrist, and that Yarushka had never been examined by a qualified psychiatrist. He admitted that he had committed Yarushka using a form pre-signed by Dr. Gaticales, the only psychiatrist employed by UHS at Arbour Lawrence.[10] Keohan admitted that Yarushka was not the only Arbour Lawrence patient who had been unlawfully committed involuntarily because the patient had never been examined by a qualified practitioner in accordance with Section 12. He admitted that Arbour Lawrence had a practice of using pre-signed Section 12(a) forms and such practice was instituted at Arbour Lawrence before he became the Clinical Director in 2000. Keohan also stated that he was merely following UHS/Arbour protocol when he used the pre-signed Section 12 form to commit Yarushka and other Arbour Lawrence patients. Counsel for Keohan implored the DPL that Keohan should "not be indicted for errors made or questionable practices instituted by Arbour" and further noted that "the practice relating to [pre-signed] Section 12 forms … was in place before Mr. Keohan became Clinical Director at Arbour's Lawrence clinic."[11] On February 25, 2015, the DPL

[10] A copy of Keohan's Answer and Affirmative Defenses To Order To Show Cause in regards to the complaint filed by Escobar as to Yarushka's involuntary hospitalization is attached at Exhibit 9.
[11] A copy of the letter from counsel for Keohan to the DPL is attached at Exhibit 10.

entered into a Consent Decree with Keohan relating to this admitted violation of Section 12.[12]

76. On July 2, 2012, after conducting an investigation into Relators' allegations relating to inappropriate licensure, supervision, and core staff compliance issues at Arbour Lawrence and its parent Arbour Malden, DPH issued a report of its findings (the "DPH Report").[13] The DPH Report confirmed Relators' belief that the lack of appropriately licensed and supervised employees extended to other practitioners employed by Arbour Lawrence and Arbour Malden, not just those who provided services to Yarushka.

77. In the course of the investigation, DPH reviewed a case history and documentation of seven unlicensed clinical therapists at Arbour Malden. DPH found that five of the seven sampled therapists did not receive ongoing and documented clinical supervision, as required by both clinic policy and by MassHealth.

78. At Arbour Lawrence, DPH found that all twenty-three of the unlicensed clinicians were not receiving supervision despite the fact that all twenty-three of the clinicians were providing services to patients that required regular supervision. Only three of the twenty-three clinical staff personnel files reviewed by DPH contained any documentation evidencing supervision - and these three individuals did not receive clinical supervision on a regular basis as required. There was no supervision documentation at all for the remaining twenty clinical staff.

[12] A copy of the Consent Decree entered into between Keohan and the DPL is attached as Exhibit 11.
[13] A copy of the DPH Report is attached as Exhibit 12.

79. As part of its investigation, DPH conducted an interview of Arbour Lawrence's Clinic Director, Edward Keohan. Keohan admitted that he was "unaware that supervision was required to be provided on a regular and ongoing basis, or that the supervision meetings needed to be documented." Keohan further admitted that Arbour Lawrence did not have any documentation evidencing any clinical supervision provided to twenty clinical therapists working at Arbour Lawrence prior to January, 2012.

80. The DPH investigation also confirmed that Arbour Lawrence did not have a board certified psychiatrist on staff, as required. DPH reviewed Arbour Lawrence's physician's personnel file and credentials which revealed that Dr. Gaticales, the only physician employed by Arbour Lawrence, was not board certified as a psychiatrist. Gaticales admitted to DPH that she had taken the examination to become a board certified psychiatrist twenty years earlier, but had failed the examination. When asked if she could produce written documentation of client record reviews, Gaticales was unable to do so.

81. In response to DPH's findings, Arbour Lawrence submitted a remediation plan that outlines how the clinic intended on remedying the violations found by the agency.[14] With respect to supervision of staff, the plan states, "all other clinicians not licensed for independent practice are now set up with individual supervision plans," and that "consistent documented supervision" would be established. The plan also states that the Office Manager would ensure that

[14] A copy of the Remediation Plan is attached as Exhibit 13.

"supervision is taking place on a weekly basis when supervisors submit billing/notes." In addition, the remediation plan calls for the parent Center Director, Andrew Stephens, to "formally evaluate clinicians' supervision plans" and further states that the "Clinical Director will meet with the Supervisors twice a month to monitor the Supervision program." During these meetings, "supervisors will be required to present documentation of supervision for review."

82. The remediation plan includes the names of all unlicensed clinicians practicing at Arbour Lawrence, and lists the names of their new supervisors. Thirteen of these individuals, who UHS acknowledges were all unlicensed, Maria Pereyra, Nora Fonseca, Steven Addison, Andres Nino, Carmen Guzman, Laurence Towler, Joseline Gonzalez, Hendry Matta, Natlie Mersha, Jose Rigueiro, Yakaira Rigueiro, Carly Souza, and Reinaldo Betances, were the same individuals previously identified by Relators as obtaining NPI numbers misrepresenting their level of professional licensure. Relators were the only source, and the original source, of information that led to the DPH investigation and the issuance of the DPH report.

83. On August 1, 2013, DPH conducted a follow-up survey to its investigation into Arbour's failure to comply with the supervision requirements.[15] Despite Arbour's assurances, articulated in the remediation plan, that it would institute internal protocols to ensure compliance with supervision requirements, DPH found otherwise. The agency reviewed documentation and interviewed staff and found that, well over a year after the initial investigation, Arbour still fell woefully short of the regulatory mark.

[15] A copy of the DPH August 1, 2013 survey is attached as Exhibit 14.

84. DPH interviewed Andrew Stephens, the Clinical Director of Arbour Malden regarding Arbour's supervision policy. Stephens confirmed that it was the clinic's policy to "provide regular supervision to its clinical staff." He also stated that unlicensed clinical therapists where to be supervised and that these meetings "were to be documented by supervisors." DPH reviewed the clinic's supervision records which demonstrated that Arbour Malden was not supervising its unlicensed workers as it had stated in the remediation plan as numerous unlicensed clinicians continued to provide services to patients without appropriate supervision. For example, DPH found that three out of the seven sampled unlicensed clinical therapists were not supervised as required.

85. DPH found that Arbour Lawrence's failure to properly supervise its employees was even more egregious. DPH interviewed Arbour Lawrence's new Clinical Director who stated that she too was aware that supervision was required to be provided on a regular and ongoing basis, and that supervision meetings needed to be documented. DPH found that ten clinical therapists at Arbour Lawrence were not receiving the required supervision. For example, an unlicensed clinical therapist hired on July 25, 2011, required biweekly supervision but had not received any supervision at all since November 15, 2012, a failure to provide any supervision for more than eight months. Another unlicensed clinical therapist, hired on March 11, 2013, had not received any supervision at all despite requiring weekly supervision. A third unlicensed clinical therapist hired in August 2011 required weekly supervision but had not received any supervision during the 2013 year.

86. In 2012, both Arbour's Malden and Lawrence facilities promised to institute an aggressive remediation plan which called for consistent, weekly supervision that would be extensively documented. The remediation plan promised that all unlicensed clinicians were set up with individual supervision plans and that Arbour Malden's clinical director would personally oversee the supervision process. In the nearly eighteen month period between DPH's initial investigation and its survey conducted in August 2013, both Arbour facilities had completely failed to institute the remedial measures regarding supervision. Had either facility made any effort at all to institute a compliance review program to ensure that proper supervision was taking place, it would have been readily apparent that the two Arbour facilities were failing to comply with both MassHealth supervision regulations and the remediation plan. Until DPH conducted its follow up investigation, DPH and all other Massachusetts agencies had no knowledge that Arbour failed to comply with its own remediation plan and that UHS had no corporate controls in place to insure that compliance with supervision requirements for unlicensed mental health workers.

87. Following Arbour's continuing failures, Arbour's CEO, John D. Fletcher, a licensed psychologist, entered into a Consent Agreement with the Board of Registration of Psychologists. On January 27, 2016, Fletcher admitted to sufficient facts as to a violation of Standard 2.05(2) of the Ethical Principles of Psychologists and Code of Conduct, a standard which states in relevant part that psychologists who delegate work to employees, or supervisees "authorize only those responsibilities that such persons can be expected to perform competently on the basis of their education, training or experience, either independently or with the level of supervision being provided." By admitting to violating this standard, Fletcher acknowledged that he personally, in his capacity as CEO of Arbour, delegated responsibility for patient care to individuals who could not be expected to perform competently on the basis of their education, training or experience. In short, Fletcher admitted that under his watch Arbour had allowed unqualified and improperly supervised "therapists" to treat Arbour's patients.[16]

UHS CAUSED FALSE CLAIMS TO BE PRESENTED TO MASSHEALTH

A. UHS Knowingly Presented False Claims to MassHealth for Services Rendered by Unlicensed Social Workers and Mental Health Counselors who were not Properly Supervised

88. MassHealth will not pay claims for mental health services rendered by unlicensed social workers[17] or mental health counselors who were not properly supervised. Indeed, the MassHealth regulations expressly state that only unlicensed social workers who "provide services under the direct and continuous supervision of an

[16] A copy of the Consent Decree entered into between Fletcher and the DPL is attached as Exhibit 15.

[17] The term "unlicensed social worker" includes all unlicensed clinical therapists and counselors who worked at the Arbour clinics.

independent clinical social worker" are qualified to provide mental health services to Mass Health members. See § 429.424(C)(2). Similarly "all unlicensed counselors…must be under the direct and continuous supervision of a fully qualified professional staff member," §429.424(F)(1) in order to provide services to Mass Health members. The qualifications and supervision requirements are express conditions of payment. *See* 130 CMR § 429.441(A). Only through compliance with the qualifications and supervision requirements could MassHealth be assured that its members were receiving mental health services delivered by qualified practitioners as opposed to charlatans.

89. It is, in fact, easy for a professional mental health organization to determine if its billing therapists require and are receiving the necessary supervision before submitting claims on their behalf. Whether the mental health workers have the necessary licenses is a matter of public record and can be discerned by a simple web search. Whether the worker has received the necessary supervision can be discerned by checking the supervision records the organization is required to keep. If, in fact, a mental health clinic submits claims on behalf of persons who are not properly licensed or supervised it is only because the clinic is deliberately violating MassHealth's qualifications and supervision requirements, or because the organization is intentionally ignorant or is recklessly disregarding the truth or falsity of the claims it is submitting.

90. UHS hires dozens of unlicensed social workers and mental health counselors to staff its Arbour clinics and readily admits that each of these staff members should have received direct and continuous supervision and the supervision should

have been documented. In practice, however, Arbour pays so little attention to MassHealth's supervision and qualifications requirements that Edward Keohan, Arbour Lawrence's clinical director, admitted that he was not even aware he was required to provide such supervision. Had UHS made even a minimal effort to comply with MassHealth's qualifications and supervision requirements, its clinical directors would have at least been aware of the supervision requirements, if not actually enforcing those requirements. Keohan's admitted ignorance of the supervision requirements establishes that as a matter of corporate management, UHS is wholly indifferent to whether the clinicians at its Arbour clinics have the proper qualifications or are adequately supervised.

91. Keohan's obliviousness to the supervision requirements is exemplary of UHS's corporate attitude towards qualifications and supervision of unlicensed workers. The results of the numerous investigations conducted by Massachusetts state agencies demonstrate that Arbour's practice of permitting unlicensed, unqualified and unsupervised mental health works to treat MassHealth members and then bill for ineligible services went far beyond the employees who treated Yarushka, and far beyond the practices at Arbour's Lawrence clinic. Arbour improperly billed MassHealth for services performed by unlicensed and unsupervised individuals at numerous Arbour clinics. All Arbour claims presented by any Arbour clinic seeking payment for services provided any unlicensed social worker or mental health counselor who did not receive continuous and direct supervision were false claims.

92. The claims UHS presented MassHealth for services performed by unlicensed and unsupervised workers Pereyra and Casado are representative. Such claims included the following:

- On November 8, 2007, UHS billed MassHealth for Pereyra's initial evaluation of Yarushka under CPT Code 90801 and was paid $111.38.[18]
- Over the next several months, Pereyra provided counseling services to Yarushka under CPT Codes 90853, the treatment code for Group Therapy. Each Group Therapy session involved approximately fifteen other patients.
- On November 13, 2007, UHS billed MassHealth, for treatment provided to Yarushka by Pereyra, under CPT Code 90853 and was paid $28.46.
- On November 20, 2007, UHS billed MassHealth, for treatment provided to Yarushka by Pereyra, under CPT Code 90853 and was paid $28.46.
- On December 11, 2007, UHS billed MassHealth, for treatment provided to Yarushka by Pereyra, under CPT Code 90853 and was paid $28.46.
- On December 18, 2007, UHS billed MassHealth, for treatment provided to Yarushka by Pereyra, under CPT Code 90853 and was paid $28.46.
- On January 18, 2008, UHS billed MassHealth, for treatment provided to Yarushka by Pereyra, under CPT Code 90853 and was paid $28.46.
- On January 2, 2008, UHS billed MassHealth, for treatment provided to Yarushka by Pereyra, under CPT Code 90806 (treatment code for Individual Therapy) and was paid $81.49.

[18] Billing records relating to the treatment of Yarushka Rivera at Arbour Lawrence are attached at Exhibit 16.

- On January, 28, 2008, UHS billed MassHealth, for treatment provided to Yarushka by Pereyra, under CPT Code 90806 and was paid $81.49.
- On June 4, 2008, UHS billed MassHealth, for treatment provided to Yarushka by Casado, under CPT Code 90847 for family therapy and was paid $42.06.
- On June 23, 2008, UHS billed MassHealth, for treatment provided to Yarushka by Casado, under CPT Code 90806 for individual therapy and was paid $40.75.
- On September 8, 2008, UHS billed MassHealth, for treatment provided to Yarushka by Casado under CPT Code 90806 for individual therapy and was paid $41.97.
- On September 15, 2008, UHS billed MassHealth, for treatment provided to Yarushka by Casado under CPT Code 90806 for individual therapy and was paid $40.75.
- On September 24, 2008, UHS billed MassHealth, for treatment provided to Yarushka by Casado under CPT Code 90847 for family therapy and was paid $43.32.

93. Below is a list of current and former UHS employees who provided mental health services to MassHealth members at the Arbour clinics. UHS subsequently presented claims to MassHealth for these employees' services. None of the persons identified below were licensed and none of them were properly supervised by UHS. All claims UHS presented to MassHealth for these employees' services were false claims.

Arbour Facility	Employee's Name	Employment Status	Stated Position	Licensure Status
Allston	Edward Fleming	Current employee	Mental Health Counselor	Not licensed
Allston	Julie Lauck	Current employee	Mental Health Counselor	Not licensed
Allston	Nancy Cuocci	Current employee	Mental Health Counselor	Not licensed
Allston	Maria Perez	Current employee	Mental Health Counselor	Not licensed
Fall River	Lindsay Ruschel	Current employee	Mental Health Counselor	Not licensed
Fall River	Sara Birmingham[19]	Current employee	Mental Health Counselor	Not licensed
Fall River	Vivian Reddin	Current employee	Mental Health Counselor	Not licensed
Haverhill	Amanda Cole	Current employee	Mental Health Counselor	Not licensed
Haverhill	Marjorie Betances	Current employee	Mental Health Counselor	Not licensed
Haverhill	Diana Koehler	Current employee	Mental Health Counselor	Not licensed
Jamaica Plain	Christie Thanasack	Current employee	Mental Health Counselor	Not licensed
Jamaica Plain	Kasey Lynh	Current employee	Mental Health Counselor	Not licensed
Jamaica Plain	Lindsay Lehman	Current employee	Mental Health Counselor	Not licensed
Jamaica Plain	Courtney Breen	Current employee	Mental Health Counselor	Not licensed
Lawrence	Stephen Addison	Current employee	Mental Health Counselor	Not licensed
Lawrence	Reinaldo Betances	Current employee	Mental Health Counselor	Not licensed

[19] Ms. Birmingham worked in both the Fall River and Lawrence clinics.

Lawrence	Eileen Casto	Former employee Dates of employment: 5/1/2006-2/1/2011	Mental Health Counselor	Licensed as of 7/6/2010[20] MA License No.: 7428
Lawrence	Nicolas Cruz	Current employee	Mental Health Counselor	Not licensed
Lawrence	Lisa Dinuccio	Former employee Dates of employment: 9/21/2007-7/26/2012	Addiction Counselor	Not licensed
Lawrence	Juana Espinosa	Current employee	Mental Health Counselor	Not licensed
Lawrence	Nora Fonseca-Zabriskie	Current employee	Mental Health Counselor	Not licensed
Lawrence	Carmen Fortuna	Current employee	Mental Health Counselor	Not licensed
Lawrence	Joseline Gonzalez	Current employee	Mental Health Counselor	Not licensed
Lawrence	Maria Gonzalez	Former employee Dates of employment: 8/20/2008-8/17/2012	Mental Health Counselor	Not licensed
Lawrence	Carmen Guzman	Current employee	Clinical Social Worker	Not licensed
Lawrence	Shakira Hernandez-Lara	Former employee Dates of	Mental Health Counselor	Not licensed

[20] Claims submitted for unsupervised services provided by Ms. Casto prior to her licensure date of July 6, 2010 are false because they violated conditions of payment.

		employment: 8/1/2009-4/15/2012		
Lawrence	Evelyn Hidalgo	Current employee	Mental Health Counselor	Not licensed
Lawrence	Gary Johnson	Former employee Dates of employment: 8/3/2009-3/2013	Mental Health Counselor	Not licensed
Lawrence	Meghan Knight	Current employee	Mental Health Counselor	Not licensed
Lawrence	Elizabeth Loomis	Former employee Dates of employment: 1/2009-9/2012	Mental Health Counselor	Not licensed
Lawrence	Bibiana Lopez	Former employee Dates of employment: 2/1998-8/2013	Senior Outpatient Clinician / Clinical Supervisor	Licensed as a mental health counselor as of 7/16/2009[21] MA License No.: 7104
Lawrence	Maritza Lopez	Current employee	Mental Health Counselor	Not licensed
Lawrence	Junice Nunez	Former employee Dates of employment: 3/23/2011-	Mental Health Counselor	Licensed as a mental health counselor as of 9/30/201422 MA License

21 Claims submitted for unsupervised services provided by Ms. Lopez prior to her licensure date of July 16, 2009 are false because they violated conditions of payment.

22 Claims submitted for unsupervised services provided by Ms. Nunez during her UHS employment from 2011 through 2012 are false because she was not licensed at that time.

		8/29/2012		No.: 9109
Lawrence	Norma Ortega	Current employee	Mental Health Counselor	Not licensed
Lawrence	Yakaira Rigueiro	Current employee	Mental Health Counselor	Not licensed
Lawrence	Jose Rigueiro	Current employee	Mental Health Counselor	Not licensed
Lawrence	Jose Rodriguez	Current employee	Mental Health Counselor	Not licensed
Lawrence	Alisha Rousselle	Current employee	Mental Health Counselor	Not licensed
Lawrence	Carly Souza	Former employee Dates of employment: 9/2011-5/2012	Mental Health Counselor	Received conditional Maine clinical social worker license in 2013[23] ME License No.: MC 13999
Lawrence	Laurence Towler	Current employee	Mental Health Counselor / Clinical Social Worker	Not licensed
Lowell	Julie Porras	Current employee	Mental Health Counselor	Not licensed
Lowell	Lisa Patenaude	Current employee	Mental Health Counselor	Not licensed
Lowell	Peter Hatch	Current employee	Mental Health Counselor	Not licensed
Woburn	Ellen Kokinidis	Current employee	Mental Health Counselor	Not licensed

[23] Claims submitted for unsupervised services provided by Ms. Souza during her UHS employment from 2011 through 2012 are false because she was not licensed at that time.

Woburn	Kimberly Makara	Current employee	Mental Health Counselor	Not licensed
Woburn	Jodi Engelstein	Current employee	Mental Health Counselor	Not licensed
Woburn	Carolyn Hart	Current employee	Mental Health Counselor	Not licensed[24]
Worcester	Jorge Guzman	Current employee	Mental Health Counselor	Not licensed
Worcester	Kelly Leigh Van Dyken	Current employee	Mental Health Counselor	Not licensed
Worcester	Lisa Bordage	Current employee	Mental Health Counselor	Not licensed

B. UHS Presented False Claims to MassHealth for Medication Management and Prescription Medications Prescribed by Psychiatric Nurses who were not properly Supervised by a Qualified Psychiatrist

94. MassHealth will not pay for prescriptions written by a person who is not authorized to issue prescriptions under Massachusetts law. Although some psychiatric nurses are eligible to write prescriptions, they may not do so unless they are supervised by a psychiatrist who meets all of the requirements of a "supervising physician" under 243 CMR 2.10(3), including having "completed training in psychiatry approved by the ACGME or the RCPSC, or be Board certified in psychiatry." By knowingly failing to employ a properly credentialed psychiatrist to adequately supervise psychiatric nurses, UHS failed to comply with this condition of reimbursement. Further, because Arbour Lawrence's clinical director failed to employ adequate psychiatric staff to meet the psychopharmacological needs of Arbour Lawrence's patients, UHS failed to comply with an express condition of payment for services provided by a satellite facility. *See* 130 CMR 429.439(C) and 130 CMR 429.423(B).

[24] Ms. Hart worked in both the Woburn and Lawrence clinics.

95. The only psychiatrist employed by Arbour Lawrence at the relevant time, and the only psychiatrist charged with supervising staff and patient care, was Dr. Gaticales. Dr. Gaticales was not a board certified psychiatrist, at no relevant time was applying for certification, and did not otherwise meet the requirements to be a qualified "supervising physician" under Massachusetts law. In August 2010 she admitted to investigators from the Massachusetts Disabled Persons Protection Commission that she did not meet the requirements of being a "supervising physician" under Massachusetts law. Moreover, Dr. Gaticales has also admitted that she failed to provide direct supervision to Maribel Ortiz or any other psychiatric nurse at Arbour Lawrence who prescribed medications to MassHealth patients.

96. Whether a psychiatrist has the credentials to lawfully supervise prescribing psychiatric nurses is a matter that can easily be determined by the most rudimentary mental health clinic, much less a clinic owned and operated by a company with the resources of UHS. This type of credentials check is routine for any health care organization that retains physicians and licensed medical professionals. Whether a psychiatrist is board certified is a matter of public record and can be verified by a quick web search. If, in fact, a mental health clinic allow psychiatric nurses to be supervised by an unqualified psychiatrist, it is only because the clinic is deliberately violating Massachusetts law, or because the clinic is either deliberately ignorant of the requirements for psychiatric nurse supervision or recklessly disregards those requirements.

97. At the time UHS billed MassHealth for prescription medication services rendered to Yarushka, Maribel Ortiz was not supervised by a board certified or board eligible psychiatrist and was therefore ineligible to bill MassHealth for the services she provided.

98. A representative false claim for prescription counseling presented by UHS is the May 6, 2009 claim to MassHealth for services rendered to Yarushka by Ortiz under CPT Code 99404 (preventive medication counseling). MassHealth paid UHS $120.36 on account of that claim. This claim for payment and all of UHS's claims for reimbursement to MassHealth for Ortiz's provision of medication counseling at Arbour Lawrence were false claims.

99. Ortiz was not the only UHS nurse who did not receive proper supervision. Teresa Ferris, a psychiatric nurse practitioner at Arbour Lawrence and Ellen Peterson, a Nurse Practitioner at Arbour Lawrence also wrote prescriptions and UHS submitted claims medication management claims (CPT code 90862) for their services. Ferris and Peterson were also supposed to be supervised by Dr. Gaticales, and any claims submitted to MassHealth during this period in connection with these nurses prescribing to MassHealth members were also false. Indeed, any claims for medication management by any Arbour Lawrence psychiatric nurse during this period were false claims.

100. False claims for unlawful medication management performed by psychiatric nurses were not limited to claims submitted by Arbour Lawrence. During this time period Gaticales was the only psychiatrist employed at Arbour's Haverhill

mental health center, which was also a satellite mental health center. Any claims UHS submitted for medication management on behalf of psychiatric nurses who provided such services at the Haverhill facility would also constitute false claims.

101. Gaticales also worked at Arbour Malden alongside another UHS psychiatrist who was not qualified to supervise prescribing psychiatric nurses, German Crisostomo, M.D. Public records reveal that Dr. Crisostomo, who has been employed by UHS since 2006, is also not board certified. To the extent those psychiatrists were supposed to supervise prescribing psychiatric nurses at Arbour Malden any claims for medication counseling services provided by those psychiatric nurses were false claims because neither Gaticales nor Dr. Crisostomo could lawfully oversee prescribing by psychiatric nurse practitioners.

C. UHS Falsely Presented Claims to MassHealth for Services Rendered to MassHealth Patients that were Performed by an Unlicensed, Unsupervised, and Unqualified Psychologist

102. MassHealth will not pay for services rendered by a psychologist who is not licensed, unless she is acting under the direct and continuing supervision of a psychologist who has the proper qualifications. 130 CMR §429.424(B)(1); §429.441. Arbour Lawrence violated this express condition of payment because the facility did not employ a single psychologist who met MassHealth's licensing requirements. Ana Fuchu was the only psychologist employed as Arbour Lawrence. She did not have the required licensure and there was no properly licensed psychologist to supervise her.

103. A mental health center can easily and quickly determine whether a psychologist is licensed. This is a matter of public record and can be readily discerned

by a quick search of the Commonwealth's licensing web site. Organizations that make the slightest effort at checking qualifications and licenses perform such a check at the time they hire the psychologist and this type of credentials check is routine. If, in fact, a mental health clinic billed MassHealth for the services of an unlicensed psychologist, it can only be because the clinic is deliberating violating MassHealth's licensing, qualifications and supervision requirement, or because the clinic is either deliberately ignorant of the licensing and supervision requirements for psychologists or recklessly disregards those requirements.

104. MassHealth would only have paid for the services Fuchu rendered if Fuchu was either appropriately licensed or appropriately supervised by a licensed psychologist who was. She was neither. The resulting claims UHS submitted to MassHealth for services rendered to Yarushka by Fuchu were therefore false claims.

105. Representative bills UHS presented to MassHealth for the therapy sessions Fuchu provided, and payments UHS received on account of those false claims include

- On February 25, 2009, UHS billed MassHealth for Fuchu's Initial Clinical Evaluation of Yarushka under CPT Code 90801 and was paid $281.46.
- On March 16, 2009 UHS billed Mass. Health for Individual Therapy rendered to Yarushka by Fuchu, under CPT Code 90806. UHS was paid $81.49 for this session.
- On March 30, 2009 UHS billed MassHealth for Individual Therapy rendered to Yarushka by Fuchu, under CPT Code 90806. UHS was paid $81.49 for this session.
- On April 20, 2009, UHS billed MassHealth for Individual Therapy rendered to Yarushka by Fuchu, under CPT Code 90806. UHS was paid $81.49 for this session.

- On June 29, 2009, UHS billed MassHealth for Individual Therapy rendered to Yarushka by Fuchu, under CPT Code 90806. UHS was paid $81.49 for this session.
- On July 13, 2009, UHS billed MassHealth for Individual Therapy rendered to Yarushka by Fuchu, under CPT Code 90806. UHS was paid $81.49 for this session.
- On July 27, 2009, UHS billed MassHealth for Individual Therapy rendered to Yarushka by Fuchu, under CPT Code 90806. UHS was paid $81.49 for this session.
- On September 8, 2009, UHS billed MassHealth for Individual Therapy rendered to Yarushka by Fuchu, under CPT Code 90806. UHS was paid $81.49 for this session.
- On September 24, 2009, UHS billed MassHealth for Individual Therapy rendered to Yarushka by Fuchu, under CPT Code 90806. UHS was paid $81.49 for this session.
- On May 6, 2009, UHS billed MassHealth for family therapy rendered to Yarushka and her family under CPT Code 90847. UHS was paid $84.12 for this session.
- On August 5, 2009, UHS billed MassHealth for family therapy rendered to Yarushka and her family under CPT Code 90847. UHS was paid $84.12 for this session.
- On June 15, 2009, UHS billed MassHealth for family therapy rendered to Yarushka and her family under CPT Code 90847. UHS was paid $84.12 for this session.
- On October 26, 2009, UHS billed MassHealth for family therapy rendered to Yarushka and her family under CPT Code 90847. UHS was paid $84.12 for this session.

106. Fuchu was not the only UHS psychologist to bill MassHealth for services without the required supervision or licensure. Andrew Nino, a psychologist/clinical social worker at Arbour Lawrence, and Dulce Fiore, a psychologist/mental health counselor at Arbour Lawrence, both provided psychological services to patients despite the fact that they were not licensed or supervised as required by § 429.424 (B)(2)(c). All claims UHS presented to MassHealth for the mental health services provided by these two clinicians were also false claims.

D. UHS Falsely Presented Claims to MassHealth for Services Rendered to MassHealth Patients that were Performed by an Unqualified and Unsupervised Psychiatrist

107. MassHealth will only pay for mental health services provided by a psychiatrist when that clinician meets the qualifications of 130 CMR §429.424(A)(1), or is directly supervised by a psychiatrist who has such qualifications. MassHealth's qualifications and supervision requirements are express conditions of payment. *See* 130 CMR §429.441(A).

108. Whether a psychiatrist meets MassHealth's qualifcations requirements can be easily ascertained by mental health clinic that makes the slightest effort to comply with the regulatory requirements. Whether a psychiatrist is board certified is a matter of public record and is ordinarily ascertained immediately upon hiring. Whether a non-board certified psychiatrist is receiving direct supervision should be easily ascertainable from the supervision records a mental health facility is required to keep. Where, however, a psychiatrist is not board certified and the mental health clinic has no other psychiatrists on staff, it is readily apparent that the single psychiatrist employed by the mental health clinic is not qualified, and bills for his or her services cannot be submitted to MassHealth. A mental health clinic which presents bills to MassHealth for its unqualified and unsupervised psychiatrist is either deliberately submitting false claims, or is deliberately ignorant of, or has recklessly disregarded, the truth or falsity of the claims it has presented.

109. At Arbour Lawrence and Arbour's Haverhill mental health clinic Dr. Gaticales was the only psychiatrist on staff during the relevant period. As described

above, she was not board certified or otherwise qualified under §429.424(A). As she was the only psychiatrist at these clinics, she was also not supervised by a fully qualified psychiatrist. Gaticales also provided services at Arbour Malden. Upon information and belief, however, her work at Arbour Malden was not supervised by a qualified psychiatrist.

110. Upon information and belief, UHS presented claims to MassHealth for psychiatric services Gaticales provided to MassHealth members at Arbour Lawrence, Arbour Haverhill, and Arbour Malden. All of those claims were false claims because UHS could not lawfully bill for unsupervised mental health services provided by Gaticales.

E. UHS Caused Hospitals to Submit False Claims to MassHealth for Persons Involuntarily Hospitalized Without an Appropriate Section 12 Examination

111. Per Arbour practice, policy, and procedure, Arbour Lawrence kept Section 12 forms on file that were pre-signed by Dr. Gaticales in order to involuntarily hospitalize a patient when a psychiatrist was not present to personally examine the patient. Such a practice clearly violated Massachusetts law and constituted an unlawful commitment. Until November 2010, an involuntary commitment could only be initiated after the patient was personally examined by a licensed medical professional meeting the qualifications set forth in the statute. The DPH investigation confirmed that it was Arbour's policy and practice to commit patients without examination by a qualified professional and that such a practice was unlawful and improper.

112. As a result of Yarushka's unlawful commitment numerous bills were presented to MassHealth for payment. For example, on September 24, 2008, UHS billed MassHealth $43.32 under CPT code 90847 for services provided Yarushka relating to her Section 12 commitment. MassHealth was further billed for transportation costs by Guardian Ambulance Corporation and for hospital expenses incurred by Lawrence General Hospital.[25]

113. When UHS submitted bills to MassHealth for services rendered to Yarushka which were prompted by the Section 12 commitment, UHS represented to MassHealth that Yarushka had received a proper psychiatric evaluation by a qualified medical professional who, in turn, had made a specific professional determination that Yarushka should be admitted involuntarily for up to 72 hours under a Section 12 petition. No such examination had in fact occurred. Had MassHealth known that the commitment was unlawful and Yarushka's civil rights had been violated, it would never had paid the bills it received from UHS or the other providers.

114. Arbour's practice of using pre-signed forms to initiate Section 12 proceedings and failing to have the patient examined by a qualified medical professional extended beyond Arbour Lawrence. Deborah Keohan, who had been a Nurse Practitioner at the Arbour Woburn clinic since 1986 stated that the Woburn clinic always had the practice of using pre-signed Section 12 forms. She also stated that Arbour Woburn employees routinely commenced commitment proceedings based on telephone consultations with a psychiatrist and using the pre-signed Section 12 forms to

[25] A claim report evidencing hospital and ambulance bills relating to Yarushka's involuntary hospitalization is attached at Exhibit 17.

make it appear that the patient had in fact been examined by a person authorized under Section 12.

115. Had MassHealth known that UHS was admitting MassHealth patients, like Yarushka, to its facilities, or causing MassHealth patients to be admitted to other hospitals, pursuant to Section 12, and was doing so without the required professional evaluation, the agency would not have paid for the resulting services. Thus, all claims presented to MassHealth for services resulting from unlawful Section 12 proceedings that were submitted by UHS, or that were caused to be submitted by UHS's unlawful actions, were false claims.

COUNT ONE
31 U.S.C. § 3729(a)(1)(A)
False Claims

116. Relators incorporate each of the preceding paragraphs by reference as if set forth herein.

117. Either with actual knowledge or in deliberate ignorance or reckless disregard of the truth, Defendants presented or caused to be presented false claims to the United States for payment from MassHealth, Massachusetts Medicaid program, in violation of 31 U.S.C. § 3729(a)(1)(A). These claims were false claims because they were for mental health services which were ineligible for reimbursement because the Defendants misrepresented compliance with MassHealth regulations which are conditions of payment.

118. As a result of the Defendants' misconduct the United States has incurred damages through payment of false claims, including payment for mental health services by unsupervised and unlicensed UHS employees.

119. The Defendants are jointly and severally liable to the United States under the False Claims Act for treble damages, in an amount to be determined at trial, plus a civil penalty of $5,500 to $10,000 for each false claim they presented and caused to be presented for payment.

COUNT TWO
Massachusetts False Claims
M.G.L. c. 12 § 5(B)(1)

120. Relators incorporate each of the preceding paragraphs by reference as if set forth herein.

121. Either with actual knowledge or in deliberate ignorance or reckless disregard of the truth, Defendants presented or caused to be presented false claims to the Commonwealth of Massachusetts for payment from MassHealth, Massachusetts Medicaid program, in violation of M.G.L. c. 12 § 5(B)(1). These claims were false claims because they were for mental health services which were ineligible for reimbursement because the Defendants misrepresented compliance with MassHealth regulations which are conditions of payment.

122. As a result of the Defendants' misconduct the Commonwealth has incurred damages through payment of false claims, including payment for mental health services by unsupervised and unlicensed UHS employees.

123. Pursuant to M.G.L. c. 12 § 5B(9), the Commonwealth of Massachusetts is entitled to three times the amount of actual damages plus the maximum penalty of $10,000 for each and every false or fraudulent claim presented or caused to be presented by the Defendants.

CONCLUSION

124. WHEREFORE, the Relators, on behalf of the United States and the Commonwealth of Massachusetts hereby prays that after a trial, this Court:

1. Enter judgment holding UHS liable for a civil penalty of $11,000 for each violation of the False Claims Act committed by UHS;
2. Enter a judgment against UHS for three times the amount of damages sustained by the United States because of the acts of UHS;
3. Enter judgment holding UHS liable for the maximum civil penalties permitted for each violation of the Massachusetts False Claims act as pled herein;
4. Enter judgment against UHS for the damages sustained by the Commonwealth of Massachusetts because of the acts of UHS described herein, multiplied, as permitted under the Massachusetts False Claims Act;
5. Award the Relators a percentage of the proceeds of the action in accordance with 31 U.S.C. § 3730;
6. Award the Relators a percentage of the proceeds of recoveries under the Massachusetts False Claims Act;
7. Award the Relators their costs and reasonable attorneys' fees for prosecuting this action; and

8. Enter such other relief which the Court finds just and equitable.

PLAINTIFFS/RELATORS DEMAND A TRIAL BY JURY ON ALL COUNTS

Dated: February 8, 2017

/s/ Thomas M. Greene
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CERTIFICATE OF SERVICE

I hereby certify that, on February 8, 2017 this document (filed through the ECF system) was sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

Dated: February 8, 2017

/s/ Thomas M. Greene
Thomas M. Greene